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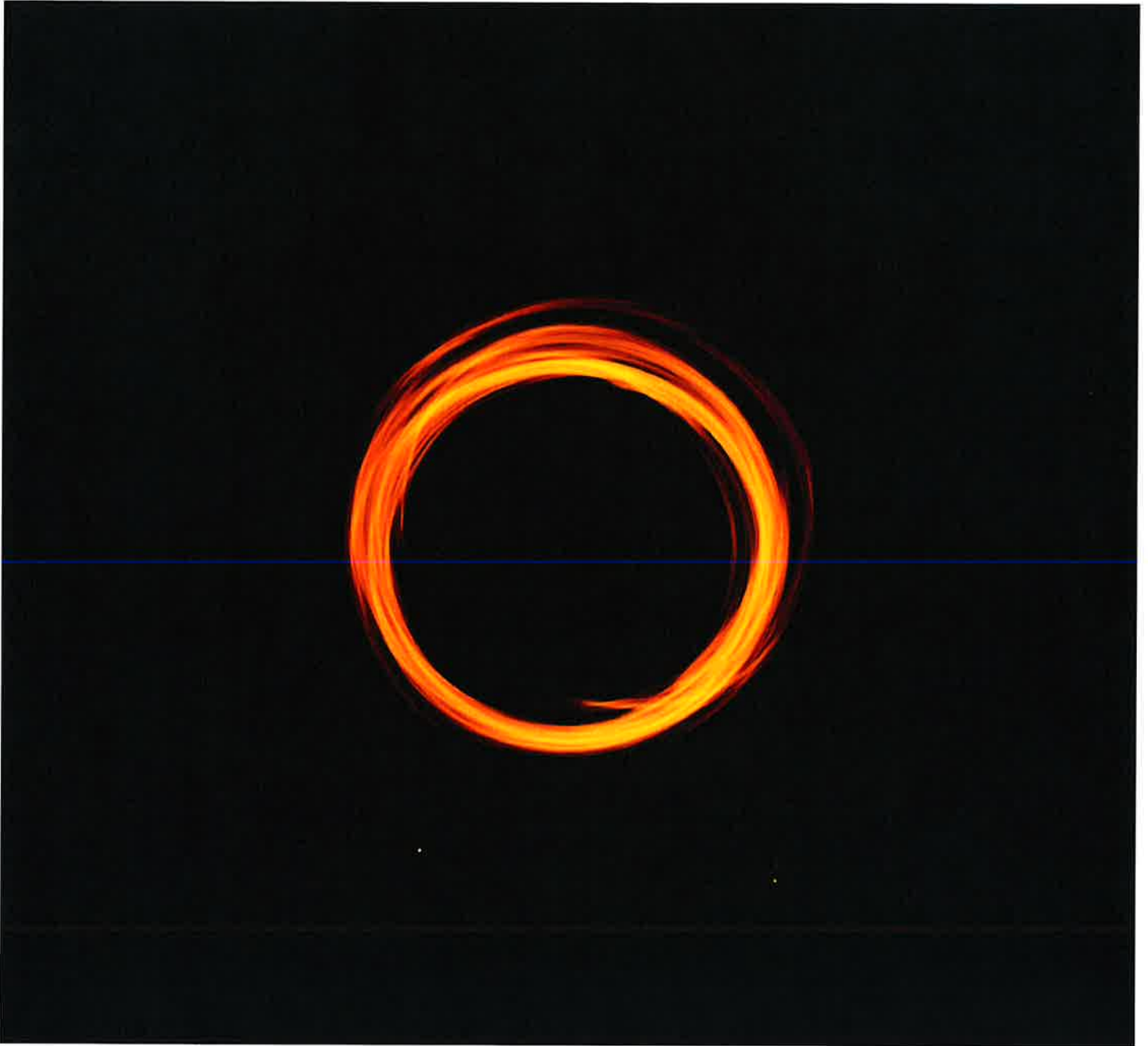


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On Joi and MIT



Lessig

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If you're coming here from the New York Times article published Saturday, please read this: On the careful reading of the New York Times editors

A couple of weeks ago, I signed a petition (the site has since been taken down, but you can see it at archive.org) expressing my support for Joi Ito. Not unexpectedly, that signing produced anger and outrage among many, and among some of my friends. I had wanted, in the spirit of the Net, to respond and explain then. I was asked by Joi's friends not to. Yesterday's events terminate that injunction. What follows is an explanation and an account, with as little emotion as I can muster.

I had known of Joi's contact with Epstein since about the beginning. He had reached out to me to discuss it. We are friends (Joi and I), and he knew I would be upset by his working with a pedophile. He knew that because he knew that I had been extensively abused as a kid, and that I am ferocious in my anger at people and institutions that protect abusers. (Defenders of the Catholic Church just love me for this.) Indeed, as I have come to understand myself, I see this anger as the whole reason for the work I do. Institutional corruption is just a fancy way to frame the dynamic of the weak enabling evil to do wrong.

Our conversations then were about his diligence to determine whether Epstein remained an abuser. I am constitutionally skeptical about claims that pedophiles reform. Pedophilia is alcoholism; it is never gone (without chemical castration), it is only suppressed. Or so I can't help but believe — I am not a scientist, and I have studied the facts not so deeply. But it is how I *feel* the wrong that evil is. It is how Joi knew I felt it. And so we had what would not have been an easy conversation about whether this criminal continued his soul-sucking crimes.

Joi believed that he did not. He believed Epstein was terrified after the prosecution in 2011. He believed he had come to recognize that he would lose everything. He believed that whatever else he was, he was brilliant enough to understand the devastation to him of losing everything. He believed that he was a criminal who had stopped his crime. And nothing in his experience with Epstein contradicted this belief.

It was not my fight. I didn't have the stomach or the ability then to do my own investigation. I wish now I had just screamed "don't" to Joi. But I didn't—and I wouldn't have. Indeed, though I don't remember this precisely, I probably told him that if he was convinced, then it was ok. Because the truth is that—as I thought about it then—if Joi believed as he did after real diligence, I didn't believe he was wrong to take Epstein's money anonymously.

That belief — of mine—was a mistake, for reasons that I'll return to below. But we should start with why that belief is even conceivable before I return to why it is wrong.

I thank god that I've never been obligated to raise money for an institution like MIT, because I know that in every moment of that existence, I would be forced to confront a gap between what I believe is right and what *every* institution does. And yet, as a person charged with fundraising, I would be pressed to adopt the ethics of the institution, not the ethics of myself.

Divide the entities or people who want to give to an institution like MIT into four types.

- **Type 1** is people like Tom Hanks or Taylor Swift — people who are wealthy and whose wealth comes from nothing but doing good.
- **Type 2** is entities like Google or Facebook, or people whose wealth comes from those companies. These are people who are wealthy because of their work within companies of ambiguous good. Some love them. Some hate them. Some think they are the key to all that's evil in the age that's coming. Some think they are the key to all that will be good.
- **Type 3** is people who are criminals, but whose wealth does **not** derive from their crime. This is Epstein, but not just Epstein. It may be that we'll discover that Epstein got rich by blackmailing people whom he had encouraged or enabled to commit abuse. I doubt it, but it's possible. Suffice it that when Joi was investigating whether that criminal continued his crime, no one was suggesting that his enormous wealth was the product of blackmail or sex slavery. He was, the world assumed, a brilliant, savant-like investor, who was also a sexual predator.
- **Type 4** is entities and people whose wealth comes from clearly wrongful or harmful or immoral behavior. The RJ Reynolds Foundation, the Sacklers, the Kochs: I

recognize that people have different views about these people or entities, but it is not hard to identify the enormous harm that each has caused. Smoking has killed *multiples* of the German Holocaust. Since 1999, more than 200,000 have died from OxyContin overdoses — four times the number of Americans killed in Vietnam (even if that's less than a fifth of the number of people killed in that insane war). If there is a single family responsible for the fact that we to this day have no comprehensive legislation addressing climate change, it is the Kochs. This money is blood money. It is wealth that is great *because of* the harm.

Universities wish they could fund their work with Type 1 money exclusively. I can't imagine that there is a single university in America that does. Instead, every university takes all four types of money. That's not to say that the universities don't have standards and don't discriminate among the various sources within each type. That's the clear lesson from Ronan Farrow's piece yesterday: apparently MIT, like probably every great university, maintains a list of "disqualified" donors. Farrow will be shown to be wrong about whether the administration told Joi that Epstein was disqualified when the Media Lab took his money, but that's a detail for the moment. The point just now is not that universities take whatever money is offered to them. The point is simply that in any major university, there is money from each of these four buckets.

That fact is what would make raising money for universities so difficult for me. Yet one way around that difficulty is to police the different motives that givers might have. Some simply give to support the university or the science the university advances — whether anonymously or not. But some give their money to whitewash their reputation. No one who knows little about Rockefeller or Carnegie thinks anything negative about those criminals. That's because whitewashing works. And since time immemorial, there have been people or families keen to wash away the stains of blood money. Or at least, to burnish the ambiguity of their reputation by leveraging the brand of great universities.

And here then would be the rub for me at least (because most universities don't follow this rule): I think that universities should not be the launderers of reputation. I think that they should not accept blood money. Or more precisely, I believe that if they are going to accept blood money (type 4) or the money from people convicted of a crime (type 3), they should only ever accept that money anonymously. Anonymity — or as my colleague Chris Robertson would put it, blinding — is the least a university should do to

avoid becoming the mechanism through which great wrong is forgiven. Were I king, I would ban non-anonymous gifts of type 3 or type 4.

Obviously, the difficulty with such a rule is distinguishing type 2 from type 4: Is Warren Buffet type 4? Obviously not. Is Bill Gates? In my view, plainly not. Is Google? So far, in my view, not, but we'll see. Is RJ Reynolds? Plainly yes. I have my views, but I realize my views are both more conservative and more liberal than others. Which is why such a rule is so difficult — however clearly, in my view, it may be compelled by the ideals of any great university.

Ok, that's a lot of words to get to a critical point about the Joi Ito story: Everyone seems to treat it as if the anonymity and secrecy around Epstein's gift are a measure of some kind of moral failing. I see it as exactly the opposite. **IF** you are going to take type 3 money, then **you should only take it** anonymously. And if you take it anonymously, then obviously you will take the many steps detailed by Farrow to keep it secret. Secrecy is the only saving virtue of accepting money like this. And rather than repeating unreflective paeans to "transparency," we should recognize that in many cases, secrecy is golden. I suspect MIT takes similarly severe steps to keep the academic records of its students secret. Good for them, for here, too, transparency would be evil.

Thus when Joi was convinced that the crimes had ended, and he took Epstein's money, anonymously, he was doing, as I saw it, and likely said, then, the most that any university administrator could do, given the unending need to raise money. That view was then confirmed by MIT's administration directly when they told Joi to take the money, conditioned upon its anonymity.

But what I — and Joi—missed then was the great risk of great harm that this gift would create. Sure, it wasn't blood money, and sure, because anonymous, the gift wasn't used to burnish Epstein's reputation. But the gift was a ticking time bomb. At some point, it was destined to be discovered. And when it was discovered, it would do real and substantial pain to the people within the Media Lab who would come to see that they were supported in part by the gift of a pedophile. That pain is real and visceral and substantial and not taken seriously enough. And every bit of emotion and outrage from victims that I have seen in this episode is, in my view, completely justified by the completely predictable consequence of that discovery. If you have not been abused, if you have not experienced that sense of being used and helpless, that may well not be

understandable to you. Maybe. But I believe that empathy is a basic human emotion. And I believe that all of us should recognize the pain that only some of us can feel in seeing the institutions around us painted with the names or wealth of those who do that wrong.

Joi should have recognized that risk. He had it in him because he had come to talk to me about it at the start. He knew people could be hurt by just knowing the facts. But he assumed they would not be harmed, because he assumed that they would not know the facts. No doubt, he had more confidence in confidentiality at the start than later on. But at the moment the wrong was initiated, he should have known that time bombs do not belong within the walls of great institutions. And he should not have brought this time bomb within the walls of the Media Lab.

He should have known that.

I should have known that.

It is the pathology of my profession that we allow emotion to be so effectively rationalized. So I didn't allow the emotion to speak when I spoke to Joi then. I was driven by the reasoning that I have enslaved the bits above to describe. I am ashamed — **ashamed**—that I did not do for my friend the one thing I was uniquely qualified to do: I am ashamed that I did not let him see just how hurtful it was to imagine slime like Epstein living within the walls of MIT, even if hidden by promises of anonymity. I fear that I have become so good at intellectualizing what happened to me that I am awful at showing the raw soul-wrenching destruction that that evil is. I should not have reasoned with Joi when he came to me. I should have wept.

I'm not saying that would have stopped him. I'm not saying that was my job. But it was my job to be his friend. I wasn't the friend I should have been.

And so now Joi is gone. Not dead. Not destroyed. I can't imagine the creative greatness that the next life of this sweet soul will produce. It will be greatness beyond measure, no doubt, again.

But as I reflect on how we got to this day, yesterday, I can't help but fear for our time. Can we deal with any complicated issue, sensibly? Or humanely? Or with integrity?

I know that Farrow's article is crafted to draw the following sentence into doubt: Everything Joi did in accepting Epstein's money he did with MIT's approval. I trust the MIT review will confirm it (yes, I remain exactly that naive). So why is *he* resigning, rather than others in the administration?

And if Ito must go because Epstein's wealth was accepted anonymously, who else should go because of blood money accepted openly? Will the planet have an equal advocate who demands justice for the Koch money? Or the victims of opioid abuse for the Sackler money? The world is obsessed with erasing the names of 18th-century racists (as if there were *any* leaders in America in the 18th century who were not racists in our 21st-century sense); what about the names of those who profited from harming others, and destroying the planet?

But more fundamentally, do we even have the capacity to make complicated judgments of justice anymore? Kate Darling doesn't forget Joi his wrong (that should be grammatical; we need that construction); yet she didn't believe he should leave. Isn't that the human condition with all of us? Is there a single person whose story is not complicated in just this sense? Is the balance just one part, or all parts, together?

So put the parts together: The MediaLab accepted an anonymous contribution from Epstein through the help and direction of Joi. The Lab did not (as "Professor Anonymous" wrote to me, his outrage apparently blinding him to irony) "help reputation-launder a convicted sex offender." It would have, had it not be anonymous; but that's the point about it being anonymous. Joi accepted this contribution with the full knowledge and approval of MIT. (Farrow's suggestion to the contrary will be shown not to be correct, as will the claims that the Lab lied to the press.) And then when that anonymity was broken, Joi acknowledged the mistake (as I have described it, the mistake in creating the potential for such pain to be so viciously revived), owned it, and apologized. The apology was not just a post — it was hours and hours of engaging and acknowledging the pain to his community, and the wrong in having caused it. *That* balance, so many have so quickly concluded, yields the result that Joi must go. And so is he gone.

MIT is less now that Joi is gone. I suspect even his most vocal critics recognize as much. So is what MIT lost worth what "the cause" has gained?